

For purposes of completeness of the record, I submit the following in Dockets 07-52 and 08-7.

This bill, as filed in the hopper in the House of Representatives, seeks to complete what these two dockets have taken comments in. I urge the FCC to codify the contents of this bill into its rules in the final order on the issues raised and discussed by literally thousands in this proceeding, including myself.

In addition to what is in the house bill below, I urge the Commission to also prohibit buy-through, where one has to buy at least one other product or service to get a desired product, similar to that in 47 CFR 76.921, and amend that to prohibit the purchase of cable TV service to have Internet, or phone to have Internet (as Vonage is alleged to have required) but not disallow 'triple-play' bundle pricing, yet require providers to sell phone, cable services, and Internet 'a-la-carte', meaning if you only wanted one service from a provider, you could get just that one service.

Now for the House Bill as filed last week.

Internet Freedom and Nondiscrimination Act of 2008 (Introduced in House)

HR 5994 IH

110th CONGRESS

2d Session

H. R. 5994

To amend the Clayton Act with respect to competitive and nondiscriminatory access to the Internet.

IN THE HOUSE OF REPRESENTATIVES

May 8, 2008

Mr. CONYERS (for himself and Ms. ZOE LOFGREN of California) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend the Clayton Act with respect to competitive and nondiscriminatory access to the Internet.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the `Internet Freedom and Nondiscrimination Act of 2008'.

SEC. 2. PURPOSES.

The purposes of this Act are to promote competition, to facilitate trade, and to ensure competitive and nondiscriminatory access to the Internet.

SEC. 3. AMENDMENTS TO THE CLAYTON ACT.

The Clayton Act (15 U.S.C. 12 et seq.) is amended--

(1) by redesignating section 28 as section 29,

(2) by inserting after section 27 the following:

`DISCRIMINATION BY BROADBAND NETWORK PROVIDERS

`Sec. 28. (a) It shall be unlawful for any broadband network provider--

`(1) to fail to provide its broadband network services on reasonable and nondiscriminatory terms and conditions such that any person can offer or provide content, applications, or services to or over the network in a manner that is at least equal to the manner in which the provider or its affiliates offer content, applications, and services, free of any surcharge on the basis of the content, application, or service;

`(2) to refuse to interconnect its facilities with the facilities of another provider of broadband network services on reasonable and nondiscriminatory terms or conditions;

`(3)(A) to block, to impair, to discriminate against, or to interfere with the ability of any person to use a broadband network service to access, to use, to send, to receive, or to offer lawful content, applications or services over the Internet; or

`(B) to impose an additional charge to avoid any conduct that is prohibited by this subsection;

`(4) to prohibit a user from attaching or using a device on the provider's network that does not physically damage or materially degrade other users' utilization of the network; or

`(5) to fail to clearly and conspicuously disclose to users, in plain language, accurate information concerning any terms, conditions, or limitations on the broadband network service.

`(b) If a broadband network provider prioritizes or offers enhanced quality of service to data of a particular type, it must prioritize or offer enhanced quality of service to all data of that type (regardless of the origin or ownership of such data) without imposing a surcharge or other consideration for such prioritization or enhanced quality of service.

`(c) Nothing in this section shall be construed to prevent a broadband network provider from taking reasonable and nondiscriminatory measures--

`(1) to manage the functioning of its network, on a systemwide basis, provided that any such management function does not result in discrimination between content, applications, or services offered by the provider and unaffiliated provider;

`(2) to give priority to emergency communications;

`(3) to prevent a violation of a Federal or State law, or to comply with an order of a court to enforce such law;

`(4) to offer consumer protection services (such as parental controls), provided that a user may refuse or disable such services;

`(5) to offer special promotional pricing or other marketing initiatives; or

`(6) to prioritize or offer enhanced quality of service to all data of a particular type (regardless of the origin or ownership of such data) without imposing a surcharge or other consideration for such prioritization or quality of service.

`(d) For purposes of this section--

`(1) the term `affiliate' means--

`(A) a person that directly or indirectly owns, controls, is owned or controlled by, or is under the common ownership or control with another person; or

`(B) a person that has a contract or other arrangement with a content or service provider concerning access to, or distribution of, such content or such service;

`(2) the term `broadband network provider' means a person engaged in commerce that owns, controls, operates, or resells any facility used to provide broadband network service to the public, by whatever technology and without regard to whether provided for a fee, in exchange for an explicit benefit, or for free;

`(3) the term `broadband network service' means a 2-way transmission service that connects to the Internet and transmits information at an average rate of at least 200 kilobits per second in at least one direction, irrespective of whether such transmission is provided separately or as a component of another service; and

`(4) the term `user' means a person who takes and uses broadband network service, whether provided for a fee, in exchange for an explicit benefit, or for free.', and

(3) by amending subsection (a) and the 1st sentence of subsection (b) of section 11 by striking `and 8' and inserting `8, and 28'.